

REMARKS

Part of the basis for the claim rejections in the Office Action mailed on 21 April 2008 is that, even though the cited reference (*Wang* in particular) only disclose using vibrations of a fixed frequency, such vibrations “will inherently have nonlinear vibrations as no linear system is perfect as synthesized, or as in nature.” *Office Action* at p. 10. Applicant respectfully disagrees with the Examiner.

First, the “nonlinear vibration” recited in the claims refers to vibration that contain a range of frequencies, which the claims further limit to 18-33 kHz. The Specification makes this point abundantly clear. For example, at p. 4, line 19-p. 5, line 5, the Applicant describes that under critical pressure, water is able to dissolve different substances at different frequencies. Using nonlinear vibration covering the specified frequency range, therefore, many types of the medicinal material can be extracted using water. At p. 9, line 23-p. 10, line 1, full-composition extraction is again discussed as an advantage of the invention. It is thus evident from the Specification that the nonlinear vibration must contain multiple frequencies spanning a range (in the case of the claims in question, 18-33 kHz) and *not* merely any one frequency or a subset of frequencies falling within the specified range.

Second, a claim term should be given its broadest *reasonable* interpretation. *MPEP* 2111. The broadest reasonable interpretation of the claims must also be consistent with the interpretation that those skilled in the art would reach. *Id.* Applicant respectfully submits that interpreting the term “nonlinear” so broadly as to encompass any imperfection in single frequency vibrations, synthesized or natural, is unreasonable. Under such absolute standards, almost no claim term would be unmet by some prior art – “curved” would read on “straight”; “uneven” would read on “flat”, “moving” would read on “still” and so on.

Third, “to establish inherency, the extrinsic evidence must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient.” *MPEP* 2112(IV) (quoting *In re Robertson*, 169 F.3d 743, 745, 49 USPQ2d 1949, 1950-51 (Fed. Cir. 1999) (citation omitted)). As discussed the preceding paragraph, under the broadest reasonable interpretation, “nonlinear vibration” should not be so broad as to encompass a single-frequency vibration merely because no vibration can be perfect.

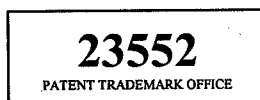
Thus, *Wang* does not inherently disclose (although it *may* result in) nonlinear vibration. Furthermore, even if *Wang* could be construed to read on “nonlinear vibration”, nothing in *Wang* or any other cited reference, discloses or suggests the range of frequencies contained in the nonlinear vibration as claimed.

For at least the above stated reasons, Applicant respectfully submits that the cited references, individually or in combination, do not disclose nonlinear vibration as recited in the rejected claims, at least not in the recited frequency range.

Further, Applicant believes that given the claim amendment submitted in the Reply of 21 July 2008 and the arguments advanced in that Reply, especially with respect to the simultaneous application of pressure and vibration, the claims are allowable as amended regardless of whether “nonlinear vibration” reads on the cited references.

Summary

In view of the above amendments and remarks, Applicant respectfully requests a Notice of Allowance. If the Examiner believes a telephone conference would advance the prosecution of this application, the Examiner is invited to telephone the undersigned at the below-listed telephone number.



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Respectfully submitted,

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A handwritten signature in black ink, appearing to read "Tong Wu". The signature is written over a horizontal line.

Tong Wu
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